IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21402 of 1994

Between:

Palacherla Narayana Murty,

S/o.late Kondal Rao,

R/o.Mallavaram Mamillu, East Godavari District.

..... PETITIONER

AND

1. The Collector,

East Godavari, at Kakinada.

2. Mandal Revenue Officer,

Addatheegala Mandal, East Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of certiori, call for the records relating to A.S.No.129/81 on the file of the 1st respondent and quash the order dated 6-8-1994 in A.S.No.129/81 and direct him to grant ryotwari patta to the petitioner.

Counsel for the Petitioner: MR.KAKARAVENKATA RAO

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

ORDER:

This writ petition is filed against the impugned order dated 6-8-1994 in A.S. No.129 of 1981 on the file of the Collector, East Godavari and to direct the 1st respondent to grant ryotwari patta.

The petitioner claims to have been in possession of lands in Sy. Nos.9, 64/1 and 64/2 in an extent of Hc. 2-10, Hc. 0-41 and Hc. 2-68 respectively in Nimmalapalem village, East Godavari District, which is a scheduled area. The Muttas were abolished in 1959. Thereafter, the Government issued Regulations 1/54, 2/69 and 1/90. As per Regulations 2/69, the Settlement Officer was empowered to grant ryotwari patta, if a non-tribal is in possession of the land in scheduled area for over a period of eight years prior to coming into force of the said Regulation, which came into force on 26-12-1970. The petitioner being a non-tribal and holding lands in a tribal area, filed appeal in Appeal No. 29/81 before the Director of Settlements. Thereafter, vide G.O. Ms. No. 791, dated 9-8-1990, the appeal was transferred to the 1st respondent, for disposal. The 1st respondent by his

order dated 6-8-1991 dismissed the appeal holding that there was no proof that the possession of the petitioner is lawful as he has not proved that his possession was continuous during the relevant period.

The petitioner contends that in similar cases where leases were granted by Muttadar in 1953 and in respect of which eviction proceedings were initiated, the Government issued G.O. Ms. No. 779, dated 8-8-1967 setting aside the eviction proceedings holding that the leases granted by the Muttadar in 1953 are valid, and the Director of Settlements in his order with respect to
Appeal Nos. 113/81, 124 to 128/81 and 132/81 dated 30-6-1992 found that the appellants therein and their predecessors-in-title have been in continuous and lawful possession of the schedule lands from 1953 before the notified date i.e. 26-12-1970.

The petitioner submitted that inasmuch as prior to Regulation 2/69 the petitioner was in possession of the land in question for more than eight years, he is entitled to ryotwari patta, and therefore, the impugned order passed by the 1st respondent rejecting the claim of the petition for grant of ryotwari patta cannot be granted. He submitted that a similar writ petition being W.P. No. 35068 of 1997, was allowed by orders of a learned Judge of this Court dated 9-1-2004 holding that the Muttedar cannot be treated as a member of hill tribe, being the landholder, and therefore, the possession and occupation of the land by the petitioners is not prohibited by the Land Transfer Regulations. The learned Government Pleader for Social Welfare appearing on behalf of the respondents had fairly conceded that the subject-matter of this writ petition is similar to the one in
W.P. No.35068 of 1997, which was allowed by a learned Judge of this Court on 9-1-2004.

In the above view of the matter, following the judgement in W.P. No. 35068 of 1997, dated 9-1-2004, the writ petition has to be allowed, and it is accordingly allowed, holding that the petitioner is entitled to grant of ryotwari patta as his possession being a
non-tribal is not hit by the provisions of the Regulations. No costs.

N.V. RAMANA, J

Dated: 26-10-2004

LSK/KSR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday the Twenty Sixth day of October Two thousand and Four.

ASSISTANT REGISTRAR.

To

1. The Collector,

East Godavari, Kakinada, along with a copy of the judgment in W.P.No.35068 of 1997, dated 9-1-2004.

2. Mandal Revenue Officer,

Addatheegala Mandald, East Godavari District.

3. Two C.Cs. to the Government Pleader for Social Welfare, High Court Buildings, Hyderabad.

4. Two C.D. copies.